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BRIEF PRESENTED TO
THE COMMISSION OF INQUIRY ON UNEMPLOYMENT
INSURANCE

BY

THE CANADIAN ADVISORY COUNCIL ON
THE STATUS OF WOMEN

January 1986

**Canadian Advisory Council
on the Status of Women**

Box 1541 Station B, Ottawa K1P 5R5

**Conseil consultatif canadien
de la situation de la femme**

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**BRIEF PRESENTED TO
THE COMMISSION OF INQUIRY ON UNEMPLOYMENT
INSURANCE**

**PREPARED FOR THE CANADIAN
ADVISORY COUNCIL ON
THE STATUS OF WOMEN**

BY

MONICA TOWNSON

THE COMMISSION OF INQUIRY ON DISSENT
AND
RESISTANCE

PREPARED FOR THE COMMISSION
BY
THE STATE



MOORE A. J. 1987

Unemployment insurance is an issue of vital concern to women. More than 5.4 million women are now in the work force. In 1984, the vast majority of women in their child-bearing years were in the labour force, with 75% of all women between the ages of 20 and 24 and 69% of those aged 25 to 34 working outside their homes – most of them in full-time jobs.¹ This major increase in women's labour force participation over the past ten years has been well documented.²

But in spite of quite dramatic changes in women's participation in and commitment to the labour force, they are still relegated to second-class status as workers. Sixty per cent of all women in the work force are confined to only three occupational categories – clerical, sales, and service. These are the same general categories into which they were segregated in 1901. Women's work in these job ghettos is undervalued and underpaid. Median earnings of a woman worker with a full-time job are only 64% of those of men who are employed full time.³ Women who must take time out of the work force to bear or raise children are penalized. With maternity benefits set at only 60% of usual earnings, Canada ranks 22 out of 23 industrialized countries in the world in the level of paid leave for women workers.⁴

Thus, the Canadian Advisory Council on the Status of Women believes that a re-examination of the Unemployment Insurance program, such as that in which the Commission of Inquiry is engaged, must pay particular attention to the impact of the program on women workers. The Council also strongly believes that particular caution must be exercised to ensure that proposed changes do not have a differential and adverse impact on women workers.

The Commission's **Participation Guide** asserts that women "are considered full-fledged members of the labour force."⁵ Yet some of the program changes that are suggested in the **Participation Guide**, in the **Report** of the Macdonald Royal Commission on the Economic Union and Development Prospects for Canada, and elsewhere, would undermine that position, reinforcing women's disadvantaged position as second-class citizens in Canada's labour force. Since the Commission of Inquiry is charged with considering the recommendations of the

Macdonald Royal Commission, we will be addressing these recommendations, as well as other issues.

This brief will discuss the implications of the current design of the Unemployment Insurance program for women and examine the likely impact on women of a number of changes that have been proposed. To establish a framework for that discussion, we will first briefly review the history of the program, paying particular attention to the philosophical principles on which the program is based. We will then discuss the origin of current criticism of the program and outline the reforms that have been proposed. Our brief will conclude with some analysis of funding issues, followed by recommendations which the Council wishes to make to the Commission of Inquiry.

The Development of Unemployment Insurance in Canada

A form of unemployment insurance was first introduced in Canada in the mid-1930s, mainly as a response to the experience of high unemployment during the economic depression in the first half of that decade. Coverage was limited to those sectors of the economy where there was thought to be a high risk of unemployment, such as agriculture, forestry and fishing. Public sector occupations were specifically excluded, and it was estimated that about 42% of the work force was covered.

The 1971 **Unemployment Insurance Act** extended coverage to virtually all workers who could be considered employees. The philosophy on which the legislation was based had two main elements:

- a broad approach to problems of economic insecurity from which comes two basic objectives: coping with the contingency of interruption of earnings and aiding re-entry into the labour market;
- the defining of a part of the problem of economic insecurity and the use of a social insurance plan to deal with this part of the problem.⁶

Coverage was also extended to those whose earnings were interrupted as a result of illness, pregnancy or quarantine, and a special lump-sum retirement benefit was introduced for workers who had reached the age of 65, to tide them over until they started receiving benefits from the Canada/Quebec Pension Plan.

From the outset, it was intended that UI would be a social insurance program. Workers were to be protected against an interruption in their earnings by a pooling of the costs and risks of unemployment among all the partners – employers, employees, and society as a whole (through a contribution from the federal government). Contributions are made to the unemployment insurance fund out of which benefits are paid. Through this fund, society then undertakes the responsibility to replace a percentage of the wages lost as a result of the earnings interruption.

It is precisely because UI is designed as a social insurance program that the contingencies of unemployment due to sickness, maternity, and retirement were brought into the program under the 1971 Act,⁷ and adoption benefits were added as of January 1984. These contingencies also represent loss of earnings to workers. Their coverage under the program reflects the view that it is socially desirable that workers whose earnings are interrupted as a result of these eventualities should be protected. So when the Commission of Inquiry asks the question:

Why are maternity benefits paid out of UI funds and not out of family allowance benefits for example? Why does a woman's salary affect the maternity benefits to which she is entitled?⁸

there is a very simple answer. It is because UI is a social insurance program, designed to protect workers against loss of earnings. Women who take maternity leave (or fathers who take adoption leave) face an interruption of earnings. Maternity benefits, like other benefits under the program, are therefore based on a percentage of the earnings lost. To suggest that they might be combined with family allowance benefits, or somehow not be related to salary, implies a fundamental misunderstanding of the concept of maternity benefits which would

remove from women workers the protection they now have as "full-fledged members of the labour force."

The importance of UI as a social insurance program is crucial to any discussion of reform of the program. Many of the proposed changes suggest that UI is or should become a social assistance program.

A **social insurance** program has certain key elements:

- it is financed by contributions which are normally shared between employers and workers, with perhaps State participation in the form of a supplementary contribution or other subsidy from the federal revenue;
- participation is normally compulsory;
- contributions are accumulated in a special fund out of which benefits are paid;
- a person's right to benefits is secured by her or his contribution record without any test of need or means;
- contribution and benefit rates are often related to what the person is or has been earning.⁹

A **social assistance** program, on the other hand, pays benefits only to those people who are deemed to be "in need". Among the main elements of such programs are:

- the whole cost of the program is funded by the State;
- a person's other income and resources are taken into account in assessing need;
- the benefit is designed to bring the individual's total income up to a community-defined minimum, taking into account such factors as family size, and fixed obligations such as rent;
- benefits are not related to the applicant's previous earnings or customary standard of living;
- authorities usually have some discretion to determine the amount of benefits, provided such discretion is exercised within the framework of the law.¹⁰

By definition, a social insurance program in which the costs and risks of unemployment are pooled involves a redistribution of income. Income is transferred from the employed to the unemployed, for instance. And, because Canada's UI program provides for special regional benefits, income is transferred from regions of low unemployment to regions of high unemployment. However, redistribution of income is not the primary function of the UI program. This is also important to keep in mind in assessing some of the proposals for changes in the program. In general, industrialized countries like Canada which have comprehensive social security programs achieve their objectives for income redistribution by direct taxation and by the management of other spending programs.¹¹

It is evident that since the 1971 UI Act, the demographic structure of the labour force has changed. In 1970, 38.3% of adult women (defined as over the age of 15) participated in the labour force. The Royal Commission on the Status of Women, in its 1970 report, noted that:

Statistical data show that the female participation rate is highest for the 20-24 age group. It declines sharply as many women leave the labour force to start families but before the age of 35 rises again to a second but lower peak for the 45-49 age group. After 50, the female participation rate declines gradually, then more rapidly.¹²

That pattern of labour force participation no longer applies to Canadian women. In fact, the labour force participation of women during their child-bearing years is the highest of any age group of women in the work force, as the table below shows.

Labour force participation of women by age, 1984

| | |
|-----------|-------|
| 15 - 24 | 63.6% |
| 25 - 34 | 69.1% |
| 35 - 44 | 69.1% |
| 45 - 54 | 59.0% |
| 55 - 64 | 33.4% |
| all women | 53.5% |

Source: Statistics Canada, **The Labour Force**, December 1984, table 57.

Women accounted for about 34% of the work force when the 1971 Act came into force. Now, they are 43% of labour force participants. These are important considerations which must also be taken into account in any changes that are made to the UI program. Indeed, the increasingly important contribution of women to the Canadian economy was recognized by the Task Force on Unemployment Insurance, which reported in 1981. It pointed out that:

...the stronger economic role of women will require program changes that help rather than hinder women's labour market participation.¹³

As part of that process of change, the Task Force recommended a streamlining of maternity benefits to make them more accessible to women workers, saying that:

The changes will recognize the increasing labour market contribution of women, and will constitute a major step forward, both in simplifying the maternity provisions themselves, and in strengthening the income protection capacity of the UI program as a whole.¹⁴

Those principles might well be adopted by the present Commission as a guide to its deliberations. Any changes to the program must recognize that women are, indeed, "full-fledged members of the labour force."

The Basis for Criticism of the UI Program

Criticism has been levelled at the UI program on two main grounds: its cost, and the disincentive effect it has on people in their efforts to retain or regain employment. There appears to be little justification for either of these criticisms. The cost arguments were summed up by the Minister of Finance in his economic statement of November 1984:

Concern has been expressed about the mounting cost of the program and the tax burden it imposes on the private sector, particularly labour-intensive small business, where it risks becoming a deterrent to job creation.¹⁵

There is an interesting apparent contradiction expressed by the private sector in its approach to the issue of UI as a disincentive. On the one hand, small business organizations state unequivocally that small business has been a major source of job creation over the past few years. On the other hand, the same groups have claimed that UI has a major negative impact on small business hiring. At this point it would seem impossible to form a useful conclusion on this issue without a deep and systematic analysis of both situations.

It is obvious that the cost of the unemployment insurance program has risen because unemployment has risen. When the 1971 Act came into force, the unemployment rate was only 6.2% and 536,000 Canadians were unemployed. At the height of the recent recession, in 1983, the unemployment rate rose to an average of 11.9% for the year, with more than 1.4 million people out of work. By October 1985, the seasonally adjusted data showed that 1.3 million people were still without work and the unemployment rate stood at 10.3%.¹⁶

The measured unemployment rate understates the extent of unemployment. The strength of the economic downturn made it much more difficult for workers who lost their jobs to find other employment. Many became discouraged and left the labour force, so they were not counted among the unemployed, since they had stopped looking for work. Women were disproportionately represented among the discouraged workers, accounting for 49% of persons not in the labour force in 1983 who said they had stopped looking for work because they believed no work was available.¹⁷

For those workers who kept looking for work, it took an average of 21.6 weeks to find another job in 1984, compared with 14.7 weeks in 1980.¹⁸ The increase in the average duration of unemployment also contributed to the increased cost of the UI program.

It must also be pointed out that while the cost of the UI program inevitably rises during times of high unemployment, the program also acts as the biggest built-in stabilizer of the Canadian economy. It maintains a certain level of spending power in the hands of the unemployed, thus supporting consumer spending,

which prevents further economic deterioration. Business and industry both benefit from this stabilization effect.

On the second criticism about the work disincentive impact of unemployment insurance, the Minister of Finance had this to say:

The vast majority of unemployed Canadians want to find a job. However, in its present form, the UI program may create obstacles to labour market adjustment and to economic growth and investment. Reviews of the program have suggested that it may create disincentives to job search and, in some cases, encourage individuals to work just long enough to qualify for benefits.¹⁹

Given the recent state of the Canadian economy and the difficulties experienced by unemployed workers, outlined above, it seems preposterous to suggest that workers entered the labour force to find short-term jobs just so they could qualify for UI benefits. In any case, no evidence that this practice is widespread, or even that it exists at all, has been produced.

If UI does act as a work disincentive, it would have the effect of increasing the measured unemployment rate. But the 1981 Task Force on Unemployment Insurance did not commission any studies on the impact of UI on the unemployment rate. Instead, it referred to studies conducted in the early 1970s and pointed out the difficulty of measuring the exact impact of the program. While the 1971 changes to UI seem to have had some impact on the unemployment rate, estimates of the impact ranged from as little as an increase of 0.5 percentage points, to as much as an increase of 1.3 percentage points, depending on the assumptions used.²⁰ But the Task Force emphasized that most of the studies it cited were conducted in the early 1970s to measure the after-effects of the 1971 UI Act, and did not take into account important design changes in 1975, aimed at strengthening work incentives. Further changes were made in the program in 1979, also intended to strengthen work incentives.

Yet, amazing as it may seem, the Macdonald Royal Commission also did not commission any new studies of the labour market impact of UI. It cites many of the same studies referred to by the 1981 UI Task Force to support its conclusion

that the UI program contributes to an increase in the length of unemployment and should therefore be cut back. Again, it must be emphasized that most of these studies were conducted almost ten years ago, when the unemployment rate was below 7% and the number of Canadians out of work was only half what it is now. As well, they do not take into account subsequent changes in the program, specifically designed to strengthen work incentives.

Economists in other countries have also been preoccupied with the impact of unemployment insurance programs on the unemployment rate. A study for the Organisation for Economic Co-operation and Development (OECD), however, notes that while research indicates UI did have some impact on unemployment rates during the 1970s,

... the evidence lends no support to the more lurid views of the importance of this phenomenon that have gained popular credence.²¹

Other reports published by the OECD have highlighted the fact that a number of countries are now focusing their attention on unemployment insurance programs. Adrian Sinfield, a Professor in the Department of Social Administration at the University of Edinburgh in the United Kingdom, points out that:

Growing concern over the abuse and the erosion of work incentives has been exploited by some governments, particularly those committed to reducing public expenditure. The neglect of many unemployed by existing systems has received very little attention by contrast, and there has been much less energy given to exploring the full extent of their needs. While support remains relatively generous for some groups, others may only be eligible for programmes which appear to be less concerned to do something for the unemployed than to them. The difference in prepositions reflects a different perception of the causes of being out of work and so a different view of government's responsibility. In many countries however, official as well as independent studies have continued to show that the link between unemployment and poverty has not been broken, especially for families and those long out of work. With increasing unemployment the need for adequate income support has become all the greater.²²

That clear link between unemployment and poverty was confirmed by a recent study by the National Council of Welfare,²³ which also drew attention to the increasing feminization of poverty. Females are over-represented among Canada's poor, according to this report. They account for almost 56% of all children and adults living in poverty, but less than 51% of the population as a whole. The study also noted the increasing importance of wives' earnings to family income and as a cushion against poverty, but it pointed out that the unemployment rate of wives increased by 42% between 1980 and 1984.

Given these disturbing trends, the Canadian Advisory Council on the Status of Women is deeply concerned that all the recent proposals for changes in the UI program, including those put forward by the Minister of Finance, the Macdonald Royal Commission, and the Commission of Inquiry in its **Participation Guide**, appear to focus on cutting back the program or changing the fundamental principles on which it is based. We find it particularly disturbing that cuts are being proposed when unemployment remains so high and the record on job creation has been so weak.

We must remind the Commissioners that employment for women has only just begun to exceed pre-recession levels. As well, there is evidence that more and more women are being forced into part-time work when they have been unable to find full-time employment (to be discussed in a later section of this brief). Since 1981, the number of women in the labour force has increased by 578,000 or 11.9%.²⁴ But the number of full-time jobs filled by women rose by only 185,000, or 5.5% during that time, while the number of part-time jobs increased by 244,000, or 22.7%. As of October 1985, 10.3% of women workers were unemployed – a level which we find unacceptably high. It is our firm conviction that government policy should be focusing on expanding employment opportunities, rather than taking away the support system from those who are without work.

In the next section of the brief, we review some of the proposed changes to the program, with particular emphasis on the proposals that are of concern to women.

Proposals Changes to the UI Program

The 1981 UI Task Force made extensive proposals for change, some of which have since been implemented. The Council was pleased to note that the Task Force's recommendations on streamlining maternity benefits and extending these benefits to adoptive parents were implemented in January 1984. These changes improved the maternity benefits program and made it more accessible to women who must take maternity leave. It had been estimated that prior to the changes, only 45% of women who took maternity leave actually received benefits under the UI program.²⁵

However, almost all the other recommendations of the 1981 Task Force, such as those relating to entry requirements and penalties for those who quit their jobs voluntarily, involved cutbacks or tightening up on the program. Neither these, nor the recommendations on changes to the financing of the program, were implemented. New variations of the proposed changes were proposed by the Macdonald Commission and further recommendations will be made by the Commission of Inquiry.

The Minister of Finance, in his November 1984 economic statement, also made some quite specific suggestions for reform of the program. They included the following:

- increasing the penalty for those who quit their jobs voluntarily without just cause from the current six weeks maximum (before benefits will be paid) to 10 or even 12 weeks;
- increasing the waiting period before benefits begin from two weeks to three weeks;
- increasing the length of time a claimant is required to work to qualify for benefits (known as the "entry requirement");
- increasing the number of weeks of insurable employment required for each week of benefits claimed;
- modifying the formula by which maximum insurable earnings are increased each year;
- reducing the benefit level below the current 60%;

- reducing the maximum length of the benefit period from 50 weeks to 40 weeks;
- reconsidering the way which job-creation, work-sharing, and maternity benefits are financed. (At the present time, the federal government bears the cost of regionally extended benefits, benefits to self-employed persons engaged in fishing, and special job-creation benefits. All other benefits, including maternity benefits, as well as administrative costs are funded by employer and employee contributions. Contributions are paid into the UI Account, within the federal government's Consolidated Revenue Fund, and where contributions are insufficient to cover the requisite benefits, the fund may be in deficit – as it is now.);
- removing special benefits, such as maternity benefits, from the program;
- taxing back more benefits from higher income earners (claimants whose annual income is more than 1.5 times the UI maximum insurable earnings limit already have to pay back part of any benefits received).

Two of these proposed changes were introduced by the federal government in 1984. The first change involves treating severance pay received as a result of lay-off as earnings for the purposes of UI. These payments, received by workers as compensation for loss of employment, will have to be allocated on a weekly basis in the weeks following termination of employment. Workers who lose their jobs under such circumstances, and who may have been planning to use the severance pay to finance retraining or relocation to find another job, will now be expected to use the money for day-to-day living expenses. Moreover, the period when they are living on their severance pay does not count as insurable earnings under the UI program. Thus, when severance pay allocations have been exhausted, workers may find they are no longer eligible for UI because they do not have the requisite number of weeks in the qualifying period immediately before their claim.

The second change, which came into effect at the beginning of 1986, treats pension income as earnings for the purpose of UI. As of January 1, 1986, the same kind of provisions will apply to pension payments, such as those received by

workers who opt for early retirement as an alternative to lay-off. Since early retirement often means accepting lower pension benefits, this provision is particularly harsh.

Both these changes penalize workers whose employers try to compensate them for unexpected lay-offs such as plant closures where large numbers of workers may be thrown out of work.

All of these suggested changes are designed to reduce the cost of the UI program. At the same time, they would tighten up on claimants, presumably giving them more "incentive" to find another job – the assumption being, of course, that there is another job to be found.

The unemployment insurance reforms suggested by the Macdonald Royal Commission are also designed to cut the cost of the program and "strengthen the work incentive". Its proposals include the following:

- reduce the benefit rate to 50% of earnings;
- raise the entrance requirement to 15-20 weeks of insured work over the previous year (it is now 10-14 weeks, depending on the regional unemployment rate);
- tighten the link between the maximum benefit period and the minimum employment period: for example, establish a ratio of two or three weeks of work to qualify for one week of benefits;
- eliminate the regional differentiation of the UI program;
- charge higher premiums to employers who lay off workers more often.

The Royal Commission estimated that these changes would cut the cost of the UI program by \$4 billion at 1985 rates of unemployment. (The program cost \$11.2 billion in 1984, when 11.3% of the work force was unemployed.) However, the Commission recommended that the money saved should be used to fund a Transitional Adjustment Assistance Program (TAAP) for prime age and older workers (between 25 and 64 years of age) with at least five years attachment to the labour force. As well, it said the impact of the cuts on low-income families

would be cushioned by the guaranteed annual income, which was also part of its recommendations.

Systemic Discrimination in the UI Program and Proposed Changes

In the next section of this brief, we will discuss in detail the likely impact of the proposed changes on women workers. However, the potential for systemic discrimination in the Royal Commission's general approach to unemployment insurance must be pointed out here. The TAAP program, with its emphasis on older workers who have at least five years attachment to the labour force, could well exclude women. If the intention is that eligibility be based on the five years immediately before entry to the program, women who have re-entered the work force after a brief period at home with children could not therefore meet the five-year test, even though they might have been in the labour force for 10-15 years in total. As well, the Royal Commission puts considerable emphasis on mobility, and on providing incentives for workers to move to regions with higher levels of employment. Such a strategy might be feasible as an approach to the unemployment problems of prime age males from one-earner families. But given that the majority of husband-wife families are now two-earner families and it may be the wife, rather than the husband who is unemployed, such emphasis on moving workers to other areas of the country to find work will not necessarily be an appropriate way to address the employment needs of women workers.

Systemic bias in programs to deal with unemployment is not a new phenomenon. Occupational segregation still persists in the Canadian labour force and women are confined to a very limited number of occupations and sectors. Policies which do not recognize this will fail to address the problem of women's unemployment. One brief to the Macdonald Royal Commission²⁶ noted that three of the four largest job creation programs administered by Canada Employment and Immigration in 1983 were directed towards increasing employment in sectors dominated by men. For example, the work-sharing program of the Unemployment Insurance scheme – designed to avoid lay-offs – allows employees to work a shorter week, while collecting UI benefits. More than three quarters of the employers involved in the program have been in manufacturing and construction, where male

workers predominate. Employment and Immigration Canada reports that 77% of employees taking part in the program in 1982 were men.²⁷ Therefore, we see another instance of women's employment situation being systematically unaddressed.

This kind of bias in existing UI programs was not acknowledged by the Macdonald Commission, nor did the Commission appear to recognize the potential for systemic discrimination in its own proposals.

The Royal Commission's proposals for unemployment insurance amount to a three-pronged strategy: a \$4 billion cut in UI benefits; a special adjustment program to assist certain workers (who are most likely to be older males); and a Universal Income Security Program (UISP) to help the rest. Workers cut off from UI benefits and not eligible for TAAP would thus be forced to rely on UISP – a form of social assistance. Although the Royal Commission does not spell out the design details of its proposed package, there are enough indications of its line of thinking to give cause for serious concern.

The **Report** appears to make a distinction between "employable persons",²⁸ who presumably would be entitled to UI benefits and TAAP assistance, and what it calls "categories of people whom Canadians do not expect to participate in the labour force", including "single parents with young children", who would presumably receive UISP. A background paper, prepared for the Royal Commission, is much more specific.²⁹ The author suggests that only those workers certified as "employable" would be entitled to participate in employment or training programs, once their (greatly curtailed) UI benefits were exhausted. Effectively, married women would be denied the right to participate, unless their total family income fell below an established level. As stated in the paper, "In the majority of cases, secondary workers in families with another full-time worker would not qualify for special employment."³⁰

We are appalled that proposals involving such a blatant denial of women's right to work for pay should have been presented as serious analysis for the consideration of the Royal Commission.

There is clearly a danger that women's right to protection against interruption of earnings on the same basis as other workers would be seriously eroded if the Royal Commission's proposals on unemployment insurance were implemented.

The Canadian Advisory Council on the Status of Women views these possibilities with alarm. We are particularly concerned, since a major part of the mandate of the Commission of Inquiry is to consider recommendations made by the Macdonald Royal Commission. While we recognize, of course, that the Commission of Inquiry will not necessarily adopt the Royal Commission's recommendations, the Commission of Inquiry's **Participation Guide** appears to indicate otherwise.

The Guide reflects bias and implies changes to the UI program which would have a serious and negative impact on women workers. We will point out those biases in the next section of this brief, where the proposals for change and their likely impact on women will be discussed.

Issues of Particular Concern to Women

The existing UI program still contains elements which have a differential and negative impact on women workers. Some of the program provisions may even be contrary to the equality sections of the **Charter of Rights and Freedoms**. Any changes to the program should correct the existing differential impact. Instead, many of the proposed changes would compound the problem.

In this section, we will review those aspects of the **existing** program that affect women differently, as well as comment on the likely impact of some of the **proposed** changes on women workers.

(a) Part-time workers

About 26% of employed women in 1984 had part-time jobs. In that year, women accounted for 71% of all part-time workers.³¹ There is evidence that an increasing percentage of part-time work is involuntary – that is, employees are accepting part-time jobs because that is all they can find, even though they would

prefer to have a full-time job and the salary that goes with it. For example, in 1980, 17% of women who worked part time said they did so because they could not find full-time jobs. By 1984, 29% of women part-time workers would have preferred a full-time job.³²

To be included in the UI program, an employee must work a minimum of 15 hours a week or earn at least 20% of the maximum weekly insurable earnings (in 1985, this would be \$92 a week). The 1983 federal Commission of Inquiry Into Part-time Work estimated that 40% of part-time workers work less than 15 hours a week and so are not covered by UI.³³ The Commission recommended that:

Legislation should be introduced to eliminate the 15 hour minimum work week requirement for participation in the Unemployment Insurance plan and replace it with a revised system under which all employed workers working over eight hours a week would pay a straight percentage of their salary, up to a set level of maximum insurable earnings. These workers should then be covered for UI benefits on a basis pro-rated according to the average number of hours they worked each month.³⁴

Given that the majority of part-time workers are women, and that an increasing percentage of these workers have been unable to find the full-time jobs they need, the Council believes it particularly important that arrangements be made to ensure that part-time workers are not excluded from UI coverage in the way they are now. (This is another example of the systemic bias in the current UI program.)

The Canadian Advisory Council on the Status of Women recommends that eligibility requirements for part-time workers be amended to ensure that a much higher proportion of part-time workers have access to UI benefits.

(b) Reduction in the benefit level

The median earnings of a woman worker with a full-time job in 1982 (the most recent year for which data are available) were only \$15,075, or just 64% of the median earnings of a man who worked full time.³⁵ Many women work for minimum wages. Even a worker who normally earns \$6.00 an hour for a 40-hour week has an annual income of only \$12,480 a year. If this worker were a single parent, for instance, with one dependant, her income would be below the poverty

level. If she loses her job and has to rely on UI benefits, her income would drop by 40%.

Any proposal to reduce the level of UI benefits would therefore have a very serious impact on lower income earners, a large proportion of whom are women.

It is interesting to note that complaints from some quarters about the "generosity" of the UI program are not borne out by the data on benefits paid. In 1984, for instance, while the potential maximum weekly benefit was \$225, the average weekly benefit actually paid to those who had lost their jobs was only \$160.08.³⁶ The average earnings of those who claimed regular UI benefits in 1984, thus, were less than \$14,000 a year. Indeed, the UI Task Force pointed out that most UI benefits are paid to lower income people, mainly because "people in lower paying jobs tend to become unemployed (and collect benefits) more often and for longer periods of time than those in higher paying jobs."³⁷ The Task Force estimated that 80% of the benefits paid in 1978 were paid to people whose incomes were less than \$12,000 a year.

The Council thus recommends that UI benefits be maintained at least at their current levels.

There has been some suggestion, by the Macdonald Royal Commission and in the **Participation Guide** published by this Commission of Inquiry, that UI may encourage workers to stay in unstable jobs instead of looking for better paid, more permanent employment. Such a comment has clear implications for women workers. We will return to it in the next section of this brief, where we discuss the proposals for experience rating.

(c) Experience rating

The Macdonald Royal Commission said that it views experience rating as "the most important change that should be made to Canada's existing UI program."³⁸ Under such a scheme, employers or sectors with a higher incidence of lay-off would be required to pay higher premiums. While the Royal Commission does not make clear whether or not its proposals would apply only to employers, or

to their employees as well, the Canadian Advisory Council on the Status of Women has some serious concerns on this topic. We note that the background paper on which this section of the Royal Commission's report is based³⁹ places considerable emphasis on workers "willing to accept lower wages", and on ways to avoid the creation of "unstable, low-paying and low-productivity jobs".⁴⁰ There is some suggestion in the paper that workers who "choose" such jobs, should be "encouraged" not to do so by being asked to pay higher UI premiums.

The Commission of Inquiry's **Participation Guide** reflects some of the same assumptions about the nature of individual choices being made by workers when it states:

The UI eligibility period and the level of benefits may discourage some workers from staying in the labour market, or incite others to work just long enough to qualify. If this is so, employers and other workers everywhere are subsidizing these trends. How can this be rectified?⁴¹

In this connection, we must make several important points:

- Most of the workers in those "unstable, low-paying" jobs – characterized by economists who study the segmented labour market as the "secondary" labour market – are women.
- Women workers often have little or no choice as to the kind of jobs they have in the work force. Occupational segregation, reinforced by systemic discrimination (outlined so clearly in reports such as that of the Royal Commission on Equality in Employment⁴²) may prevent them from moving into more stable, better paying jobs in the primary labour market, even when they have the skills and training to do so.
- Since workers in the low-paying, unstable jobs are, by definition, already poorly paid, we cannot see the justification for penalizing them still further by forcing them to pay higher UI premiums.
- A system of experience rating for employer premiums only will ultimately have an additional detrimental impact on those workers in the "secondary" labour market, since UI premiums are effectively

a payroll tax and will be taken into account by employers in establishing wages.

The Macdonald Commission's enthusiasm for experience rating appears to be based on the United States experience. But in the United States, employers pay the full private sector share of program costs for unemployment insurance. The 1981 UI Task Force pointed out that there are

... grounds for questioning whether a Canadian experience rated system, introduced into current tripartite financing, would be effective in inducing employers to stabilize employment. American findings on the impact of experience rating in this regard have been mixed. It is likely that in Canada the effects of the scheme would be even weaker, due to the characteristics of the Canadian UI system.⁴³

The Canadian Advisory Council on the Status of Women fully supports the principle of social insurance that is central to the current unemployment insurance program, and opposes any erosion of this principle in the direction of private insurance or social assistance. Accordingly, the Council is opposed to the introduction of experience rating (the establishment of higher contributions in areas or sectors of high unemployment).

(d) Increased penalties for voluntary quits

A worker who voluntarily quits her job without "just cause" is penalized by having to wait six weeks before being entitled to UI benefits. A number of the proposals have suggested this penalty be doubled to 12 weeks. The **Participation Guide** states:

What are "just causes" for quitting one's job? Since it is so difficult to judge what "just cause" is, does this distinction make sense?⁴⁴

The Commission of Inquiry seems to be suggesting that anyone who quit their job, whether or not there was a justifiable reason, would be penalized.

"Just cause" is not defined in the UI Act. It is left to administrative officials in UI offices to interpret the phrase, based on precedents set by other decisions. The rules on voluntary quits present particular problems for women workers. If a woman is subjected to sexual harassment in the workplace, is this "just cause" to quit her job without penalty? Employment and Immigration Canada guidelines indicate that it is, although the officials may require the complainant to show that she had taken action to change the situation before deciding to quit her job. However, if "just cause" is dropped, as the Commission of Inquiry suggests, a woman who quits her job because she is subjected to sexual harassment would then be penalized. We find such a prospect intolerable.

As the program is now administered, a woman who quits her job because her husband has to move to a job in another part of the country apparently is considered to have "just cause" and will not be penalized. Since it is most often women who have to move when their husbands relocate, the abolition of the "just cause" provision would have obvious implications for women workers.

The question of adequate child care may also cause problems for women. What if a woman is unable to find affordable child care services and has to quit – is this "just cause"? In this situation, women workers may be placed in a "double jeopardy" position. Those who claim UI benefits are asked if they have any "domestic responsibilities". Claimants who report they have young children at home must demonstrate they have made child care arrangements so that they are "available for work" – a condition that must be met before benefits are paid. Suppose a woman has to quit her job because her child care arrangements are unsatisfactory. She is then able to make other arrangements, thus qualifying as "available for work", but she will have to wait six weeks before receiving benefits because she quit her job voluntarily. Higher penalties for voluntary quits, in this case, would exacerbate the difficulties already faced by women workers.

The Canadian Advisory Council on the Status of Women recommends that people who quit their job for "just cause" not be subject to penalties under the UI program, and that (reported) sexual harassment, inability to find adequate child care, and relocation of a spouse be recognized as among the "just causes" for quitting a job.

(e) Basing benefits on family income

The Commission of Inquiry's **Participation Guide** makes the suggestion that only one earner in a household might be entitled to full rights under the UI program when it makes the statement:

There are many two and three paycheque households in the country. If one paycheque is lost due to unemployment, should benefits differ for that person than for a sole breadwinner?⁴⁵

The Commission also asks the question: "Should benefits be based on family income?"⁴⁶

This suggestion is perhaps the most iniquitous of all the proposed changes, as far as women are concerned. The idea is that, while all employees would continue to contribute to UI based on their individual earnings, whether or not they obtain UI benefits when they are out of work would depend on the income of the family at the time. It would be similar to making it compulsory for all homeowners to buy fire insurance to protect themselves in case of fire, but if an individual's home burned down, she or he would not be able to make a claim unless it could be proved she or he really needed the money. Since women's earnings are so much lower than men's, as we have already pointed out, the impact of this proposal would be that when a male worker lost his job, even if his wife is still working, the family income would likely meet the test, and he would be able to receive UI benefits. However, if a woman worker lost her job, and her husband was still working, she would likely be denied benefits.

In effect, then, married women, by their individual contributions to the program while employed, would be expected to subsidize benefits for married men. The proposal was developed in some detail in a paper published by the Economic Council of Canada in 1980.⁴⁷ These authors admitted that

The benefits reductions are overwhelmingly concentrated on wives in middle and upper-middle income families . . .⁴⁸

Apart from the fact that such a proposal is probably contrary to the equality sections of the **Charter of Rights and Freedoms**, there is another point which must be made. The proposal would obviously involve a needs test for benefits (to determine family income). Thus it clearly removes the UI program from the social insurance model and makes it into a social assistance program, with benefits payable only to those who can demonstrate "need".

The Canadian Advisory Council on the Status of Women regards the proposal to base benefits on family income as totally unacceptable. Indeed, we would question whether it would even be legal, given sections 15 and 28 of the Charter. Those sections guarantee that every individual is equal both before and under the law. The Parliamentary Committee on Equality Rights, in its examination of federal laws to determine whether or not they were in conformity with the Charter, came to the conclusion that "a law that does not single out for adverse treatment members of a group protected by section 15 will nonetheless be discriminatory if that is the inherent result."⁴⁹ In other words, laws which result in systemic discrimination would be contrary to the equality sections of the Charter.

A proposal to base UI benefits on family income, which effectively denied benefits to married women, even though they had contributed to the program as individual workers, would clearly involve systemic discrimination.

The Council recommends that benefit rate structures not be based on either family income or number of dependants.

(f) Removal of maternity/adoption benefits from the program

A number of proposals have suggested that maternity benefits do not belong in an unemployment insurance program. In our view, it is entirely appropriate that these benefits should be included in the program, as already explained (see page 3 of this brief). Child-bearing and child-rearing are activities which parents undertake on behalf of society as a whole. We believe that society should ensure that those who undertake this vital work do not suffer a financial penalty for doing so. Given that the majority of women in their child-bearing years are already in the work force, we consider it essential that they be entitled to a

replacement of lost earnings when those earnings are interrupted as a result of child-bearing or parenting responsibilities. Because UI is still a social insurance program, these benefits are given to women workers as a matter of right based on their earnings and contribution record. We cannot accept the suggestion that these benefits be removed from the UI program and replaced with a flat-rate benefit, since this would deny women workers access to income replacement while they are on maternity leave.

In addition, as the 1981 UI Task Force pointed out, the constitutional basis for unemployment insurance is different from other social security measures.

Unlike other components of the system, like social assistance, which fall primarily under provincial jurisdiction, unemployment insurance rests exclusively under federal authority. This reflects the federal responsibility for the overall management of the economy and for the fiscal and monetary measures most capable of addressing unemployment.⁵⁰

There is thus a constitutional basis for federal authority over special benefits like those for maternity and adoption, **as long as they are included in the program**. It is not clear that the federal government would retain jurisdiction if benefits were removed from the program. Canadian women's right to earnings replacement while on maternity leave might then depend on provinces developing their own programs. Thus, a national program, with national standards, available to all women regardless of where they live, might be jeopardized.

The private sector has complained that the cost of having maternity benefits in the UI program is too heavy a burden. In answer to this complaint, it should be pointed out that maternity benefits accounted for only 4% of total benefits paid in 1984. Thus, only \$396 million was paid out in maternity benefits in that year, compared with \$8.8 billion in regular UI benefits.⁵¹

The average weekly benefit paid to women who qualify for maternity benefits under the UI program reflects the low earnings of women workers. In 1984, for instance, when the maximum weekly benefit was \$255.00, women who claimed maternity benefits received an average of only \$178.53 a week.⁵²

We must emphasize that maternity and adoption benefits are designed to provide **earnings replacement** while mothers or fathers are on leave. We categorically reject the suggestion in the Commission of Inquiry's **Participation Guide**, referred to earlier in this brief, that maternity benefits might just as well be combined with family allowances and not related to the individual worker's income.

The Council recommends that maternity and adoption benefits continue to be available through the UI program at least at their current levels.

(g) Two-week waiting period

The purpose of the two-week waiting period for regular UI benefits is to serve as an incentive for the unemployed worker to find another job. Because women about to give birth are in no position to look for other work, there is little logic in retaining the two-week waiting period prior to receiving benefits.

(h) Limit of 15 weeks on all special benefits

Under the current UI program, an employee who claims "special benefits", such as sickness or maternity, may receive benefits for a maximum total of 15 weeks. (The maximum benefit period of maternity, adoption, and sickness benefits separately is 15 weeks for any one claim. To establish a second claim, the worker would have to requalify by accumulating the requisite number of insured weeks of employment during the appropriate qualifying period.)

The impact of this regulation on women workers is cause for concern. Suppose, for example, a woman worker becomes pregnant and has an illness, which may or may not be related to her pregnancy. She may start a claim for sickness benefits early in her pregnancy. (Maternity benefits are not available until eight weeks before the expected date of birth.) If she receives ten weeks of sickness benefits, she will then be able to claim only five weeks of maternity benefits.

We see no justification for this situation and we believe that, provided she meets the usual criteria for benefits, a woman's right to maternity benefits under the UI program should not be curtailed because she has also claimed sickness benefits in the period before going on maternity leave. Consequently, we

recommend that the limit on special benefits to a total of 15 weeks be abolished, thus allowing women access to both sickness and maternity benefits as required.

(i) Payment of maternity benefits in a strike situation

Employees who are involved in a strike or lock-out are disentitled to UI benefits for the period of the labour dispute. However, the same rules are applied to maternity and adoption benefits. Thus, a woman whose claim for maternity benefits arises immediately before, or during a labour dispute, may be denied benefits. Such a rule is clearly inappropriate in its application to claimants for maternity or adoption benefits and the Council recommends it be abolished.

(j) Treatment of re-entrants to the work force

Because women are still much more likely than men to be expected to bear the major share of domestic labour and family responsibilities, they are more likely to be new entrants or re-entrants to the labour force. Under the existing UI program, such employees are required to work 20 weeks in order to qualify for UI benefits, while other claimants must work only 10-14 weeks to qualify.

The Council believes these entry requirements are based on a definition of labour force attachment which reflects the work life experience of prime age males and, as such, they are inappropriate for women.

We recommend that the higher entry requirements for new entrants and re-entrants be abolished as they effectively discriminate against women.

(k) Challenges to the Charter of Rights and Freedoms

Certain aspects of the UI program, because of their differential and negative impact on women workers, may be found to be contrary to the equality provisions of the **Charter of Rights and Freedoms**. We have already pointed out some of the proposed changes to the program which might be challenged under the Charter. There are several other areas to which we would draw the attention of the Commission of Inquiry:

- Women who claim maternity benefits must work for 20 weeks in order to qualify. Those who claim regular benefits must work only

10-14 weeks. The UI Task Force saw no justification for this differentiation and recommended that entry requirements be the same for all types of benefits under the program. The Task Force said:

Although labour market considerations argue strongly for more stringent entrance requirements to improve work attachment, the fairest way to achieve these is through a general increase, instead of continuing to single out certain groups for different treatment.⁵³

Given the continuing high rate of unemployment and the difficulty unemployed workers have in finding another job, entrance requirements should be reduced so that the 10-14 week requirement applies to all claimants.

The Parliamentary Committee on Equality Rights also recommended that the entry requirements be the same for special benefits as for regular benefits.⁵⁴ We support that recommendation.

- Adoption benefits are available to fathers, whereas maternity benefits are not. The Council feels strongly that parenting should be a shared responsibility between both parents, where there are two parents in a family. We therefore support the notion of making all benefits associated with the arrival of new children in the family available to either parent. However, because women who give birth to children must have a period of time for physical recuperation from the birth, we feel there should be a certain number of weeks where maternity benefits are available only to mothers.

Such distinctions should be part of a comprehensive program for paid parental leave. Our views on the design and coverage of such a program are beyond the scope of this brief. However, we have recommended elsewhere that:

... parental leave of 26 weeks in total, available to either parent(s), whether natural or adoptive, be paid at the full salary of the parent(s) taking the leave and who are eligible under the Unemployment Insurance Act; and

...that this parental leave be financed by contributions from all social partners: employers, employees and the federal government.⁵⁵

- There may also be grounds for action in some of the administrative procedures of the UI program as it now exists. The requirements that certain workers demonstrate they have made child care arrangements in order to qualify for benefits, discussed earlier in this brief, may be one such example.

Recommendations

In conclusion, we must reiterate our concern that most of the proposals for change in the UI program would have a major adverse impact on women workers, and that they focus on cutting back the program.

It is our firm conviction that the continuing high rates of unemployment in Canada must be addressed, not by cutting back financial support to the unemployed, but by developing effective policies for full employment.

The Canadian Advisory Council on the Status of Women wishes to make the following specific recommendations to the Commission of Inquiry:

1. That no changes whatsoever be made to the Unemployment Insurance program in the absence of a full employment strategy, which would incorporate a specific employment strategy based on the particular characteristics of women's employment and unemployment.
2. That benefits be maintained at least at their current levels.
3. That maternity and adoption benefits continue to be available through the UI program at least at their current levels, that rules preventing payment of these benefits during a labour dispute be abolished, that the two-week waiting period for maternity benefits

be abolished, and that maternity benefit claimants not have to work longer to qualify for benefits than claimants who are entitled to regular benefits.

4. That benefit rate structures not be based on either family income or number of dependants.
5. That the higher eligibility requirements for new entrants and re-entrants to the labour force be abolished because they discriminate against women.
6. That eligibility requirements for part-time workers be amended to ensure that a much higher proportion of part-time workers have access to UI benefits.
7. That people who quit their jobs for "just cause" not be subject to penalties under the UI program and that (reported) sexual harassment, inability to find adequate child care, and relocation of a spouse be recognized as among the "just causes" for quitting a job.
8. That the limit on special benefits to a total of 15 weeks be abolished, allowing women access to both sickness and maternity benefits as required.
9. That experience rating (the establishment of higher contributions in areas or sectors of higher unemployment) not be used as a basis for financing the UI program.

NOTES

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5. Canada, Commission of Inquiry on Unemployment Insurance, **Participation Guide. Unemployment Insurance Commission: Back to the Drawing Board?** (Ottawa: Supply and Services Canada, 1985), p. 6.
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31. *Supra*, n. 1, tables 86 and 87.
32. *Ibid.*, table 87; *supra*, n. 2, table 32.
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